



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB4454

by Rep. Mark H. Beaubien, Jr. - Barbara Flynn Currie

SYNOPSIS AS INTRODUCED:

35 ILCS 5/404

from Ch. 120, par. 4-404

Amends the Illinois Income Tax Act. In a Section authorizing the Director of Revenue to make certain adjustments to base income if it appears to the Director that any agreement, understanding, or arrangement exists between any persons that causes any person's base income allocable to this State to be improperly or inaccurately reflected, limits the provision to non-business income and provides that the Director may not make these adjustment before the Department of Revenue adopts rules concerning the adjustments. Provides that, unless the principal purpose of the agreement, understanding, or arrangement is for the avoidance of federal or Illinois income tax, any adjustment made by the Director and the rules required to be adopted must be in accordance with certain provisions of the Internal Revenue Code. Effective immediately.

LRB095 16946 BDD 42991 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Income Tax Act is amended by
5 changing Section 404 as follows:

6 (35 ILCS 5/404) (from Ch. 120, par. 4-404)

7 Sec. 404. Reallocation of Items.

8 (a) If it appears to the Director that any agreement,
9 understanding or arrangement exists between any persons which
10 causes any person's base income allocable to this State to be
11 improperly or inaccurately reflected, the Director may adjust
12 such items of income and deduction, and any factor taken into
13 account in allocating non-business income to this State, to
14 such extent as may reasonably be required to determine the base
15 income of such person properly allocable to this State.

16 (b) The Director may not make any adjustment under
17 subsection (a) before the Department adopts rules setting forth
18 the methods and standards by which the Director may exercise
19 authority under this Section. The rules must set forth the
20 types of agreements, understandings, and arrangements that the
21 Director will consider to cause a person's base income
22 allocable to this State to be improperly or inaccurately
23 reflected.

1 (c) Unless the principal purpose of the agreement,
2 understanding, or arrangement is for the avoidance of federal
3 or state income tax, any adjustment made under this Section and
4 the rules required to be adopted under subsection (b) must be
5 in accordance with Section 482 of the Internal Revenue Code, as
6 amended, and the related Treasury Regulations.

7 (Source: P.A. 76-261.)

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.